

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

OFFICE OF SPECIAL  
COUNSEL (I.R.U.E.P.)  
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IN RE CHARGE OF  
CARLOS MOLINA  
  
UNITED STATES OF AMERICA,  
COMPLAINANT,  
  
v.  
  
AARON TEMPORARY SERVICE,  
a Texas Corporation,  
RESPONDENT.

8 U.S.C. § 1324b PROCEEDING

OCAHO CASE No. 93B00037

**CONSENT DECREE**

Pursuant to the Rules of Practice and Procedure for the Office of the Chief Administrative Hearing Officer (OCAHO), Mr. Carlos Molina, the Office of Special Counsel for Immigration Related Unfair Employment Practices (Special Counsel), and Aaron Temporary Service (ATS) file this consent findings and proposed order with the Court. 28 C.F.R. § 68.14.

**CONSENT FINDINGS**

1. This action is brought by the Special Counsel to enforce the provisions of 8 U.S.C. § 1324b; and 28 C.F.R. Part 44.

2. On February 26, 1993, the Special Counsel filed a Complaint with this Court charging ATS with committing an unfair immigration-related employment practice against Mr. Molina for requesting more or different documents than required by the employment verification provisions of 8 U.S.C. § 1324a.

3. Specifically, the Complaint alleges that on or about July 14, 1992, Mr. Molina applied for employment with ATS which in turn requested that Mr. Molina present an identification card. After, Mr. Molina presented his Texas driver's license, ATS requested that Mr. Molina provide his "green card." Instead, Mr. Molina presented his temporary resident card which ATS also rejected.

#### **SETTLEMENT TERMS**

4. ATS will pay Mr. Molina full back pay in the amount of \$360.00. ATS agrees that it shall not discriminate nor retaliate against Mr. Molina in any manner for his filing of a charge of an unfair immigration-related employment practice with the Special Counsel.

5. ATS will pay a civil penalty in the amount of \$250.00. ATS will pay this civil penalty by certified check, payable to the United States Treasury. The check will be mailed to the Special Counsel along with an executed copy of this Consent Decree.

6. ATS will not specify which documents, from among the legally acceptable documents set forth in 8 U.S.C. § 1324a(b) and its implementing regulations, it will accept from individuals for employment verification purposes, as well as for reverification purposes.

7. ATS will post a notice, in a place visible to all employees, advising all employees of their rights and duties

under 8 U.S.C. § 1324b. The notice is to be supplied by the Special Counsel and will be posted for a period of six months following the date of entry of the Consent Decree. The notice is attached as "Notice A."

8. ATS will provide a notice to each individual that applies for employment, recruitment, or referral through ATS notifying them of their rights under 8 U.S.C. § 1324b. The notice is to be supplied by the Special Counsel and will be provided to each individual for a period of six months following the date of entry of the Consent Decree. The notice is attached as "Notice B."

9. The decision and order based upon the consent findings shall have the same force and effect as a decision and order made after a full hearing.

10. The entire record on which any decision and order may be based shall consist solely of the Complaint and Notice of Hearing.

11. Mr. Molina, the Special Counsel, and ATS waive any further procedural steps before the Administrative Law Judge.

12. In consideration of the settlement terms contained herein, Mr. Molina hereby waives, releases, and covenants not to sue or commence any proceeding against ATS based upon the allegations in his charge. Mr. Molina's signature on this Consent Decree constitutes such waiver and release.

13. Mr. Molina, the Special Counsel, and ATS waive any right to challenge or contest the validity of the decision and order entered into in accordance with this consent decree.

14. Mr. Molina, the Special Counsel, and ATS agree to bear their own costs, attorney fees and other expenses incurred in this action.

4/7/93  
Date

3-12-93  
Date

03-18-93  
Date

WILLIAM HO-GONZALEZ  
Special Counsel

By: [Signature]  
Kirk M. Flagg  
Trial Attorney

ATS, Inc.

By: [Signature]  
John Marino  
ATS, Inc.

[Signature]  
Carlos Molina

APPROVED BY THE COURT:

[Signature]  
Joseph E. McGuire  
Administrative Law Judge  
Office of the Chief Administrative Hearing Officer

Date: April 19, 1993

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of April, 1993, I have served copies of the foregoing Consent Decree to the following persons at the addresses shown, in the manner indicated:

Office of the Chief Administrative Hearing Officer  
Skyline Tower Building  
5107 Leesburg Pike, Suite 2519  
Falls Church, Virginia 22041  
(original hand delivered)

Kirk M. Flagg, Esquire  
Office of Special Counsel for Immigration  
Related Unfair Employment Practices  
P.O. Box 27728  
Washington, D.C. 20038-7728  
(one copy sent via regular mail)

Mr. John Marino  
Aaron Temporary Services, Inc.  
6606 LBJ Freeway  
Dallas, Texas 75240  
(one copy sent via regular mail)

Mr. Carlos Molina  
5351 Peterson Lane, #429  
Dallas, Texas 75240  
(one copy sent via regular mail)



Cathleen L. Lascari  
Legal Technician to  
Joseph E. McGuire  
Administrative Law Judge  
Department of Justice  
Office of the Chief Administrative  
Hearing Officer  
5107 Leesburg Pike, Suite 2519  
Falls Church, Virginia 22041  
(703) 305-1043

# THE IMMIGRATION REFORM AND CONTROL ACT (IRCA) PROHIBITS EMPLOYMENT DISCRIMINATION

## WHAT YOU SHOULD KNOW

Under IRCA, when hiring, discharging, or recruiting or referring for a fee, employers with four or more employees may not:

Discriminate because of national origin against U.S. citizens, U.S. nationals and authorized aliens. (Employers of 15 or more employees should note that the ban on national origin discrimination against any individual under Title VII of the Civil Rights Act of 1964 continues to apply.)

Discriminate because of citizenship status against U.S. citizens, U.S. nationals, and the following classes of aliens with work authorization: permanent residents, temporary residents (that is, individuals who have gone through the legalization program), refugees, and asylees.

Employers can demonstrate compliance with the law by following the verification (I-9 form) requirements and treating all new hires the same. This includes the following steps:

Establish a policy of hiring only individuals who are authorized to work. A "U.S. citizens only" policy in hiring is illegal. An employer may require U.S. citizenship for a particular job only if it is required by federal, state, or local law, or by government contract.

Complete the I-9 Form for all new hires. This form gives employers a way to establish that the individuals they hire are authorized to work in the United States.

Permit employees to present any document or combination of documents acceptable by law. Employers cannot prefer one document over others for purposes of completing the I-9 Form. Authorized aliens do not all carry the same documents. For example, not all aliens who are authorized to work are issued "green cards." As long as the documents are allowed by law and appear to be genuine on their face and to relate to the person, they should be accepted.

IRCA established the Office of Special Counsel for Immigration Related Unfair Employment Practices to enforce the IRCA antidiscrimination provision. Discrimination charges are filed with this Office. Charges or written inquiries should be sent to: The Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, D.C. 20038-7728. The Office can also be reached by calling 1-800-255-7688 (toll free) or 202-616-5594; 1-800-237-2515 or 202-616-5525 (TDD device for the hearing impaired). For questions about Title VII, please contact the Equal Employment Opportunity Commission at 1-800-USA-EEOC (toll free) or 202-634-7057 (TDD).

## NOTICE TO ALL APPLICANTS

Notice B

The U.S. Department of Justice and Aaron Temporary Service (ATS) want you to know your rights under the Immigration Reform and Control Act of 1986 ("The Law").

1. The Law requires ATS to hire only individuals authorized to work in the U.S. This includes U.S. citizens and aliens authorized to work by the Immigration and Naturalization Service.

2. The Law requires all individuals to provide documents to ATS to prove their identity and their employment eligibility.

3. The Law provides that it is the individual's choice of which documents to provide to their employer. [For example: Any individual, U.S. citizen or work-authorized alien, may present a genuine drivers license and social security card, which is not stamped "not for employment purposes," as proof of their identity and authorization to work in the United States. U.S. passports or alien registration cards, as well as other documents, may be used.]

A complete list of acceptable documents along with additional information of your rights under The Law may be obtained from the U.S. Department of Justice, 1-800-255-7688 (toll free).

## AVISO A TODOS LOS SOLICITANTES

El Departamento de Justicia de los Estados Unidos y los Aaron Temporary Service (ATS) quieren darles a conocer sus derechos bajo la Ley de Reforma y Control de la Inmigración de 1986 ("La Ley").

1. La Ley exige que los ATS solo contraten a individuos autorizados a trabajar en los Estados Unidos. Eso incluye a los ciudadanos de los Estados Unidos y a los extranjeros con permiso de trabajo otorgado por el Servicio de Inmigración y Naturalización.

2. La Ley exige que todos los individuos provean a los ATS documentos que prueben su identidad y su autorización de trabajo.

3. La Ley estipula que el individuo seleccione los documentos que quiera proveer a su empleador. [Por ejemplo: Para probar su identidad y su autorización de trabajo en los Estados Unidos, cualquier individuo, ciudadano de los Estados Unidos o extranjero autorizado a trabajar, puede presentar su licencia para conducir válida y su tarjeta de seguro social que no tenga el sello "not for employment purposes" (no es válido para propósitos de trabajo). Asimismo, puede presentar su pasaporte de los Estados Unidos o su tarjeta de registro como extranjero al igual que otros documentos.]

Una lista completa de todos los documentos aceptables así como información adicional sobre sus derechos estipulados por La Ley pueden obtenerse de la Oficina del Consejero Especial, Departamento de Justicia de los EE.UU. teléfono al 1-800-255-7688 (llamada gratuita).